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REMARKS

Claims 1-23 are currently pending. Claims 20-23 have been allowed. Claims 5, 7, 8, 10, and 15-18 were indicated as allowable if rewritten in independent form. A clean copy of all claims is attached as Appendix A for the convenience of the Examiner.

Indefiniteness

Claim 19 was objected to as lacking antecedent basis for "the aforesaid multipoint network event." Applicant has fixed this problem in a manner not intended to narrow the scope of the claim.

Rejections under 35 U.S.C. § 103

Claims 1-4, 9, and 11-13 were rejected under 35 U.S.C. § 103(a) as obvious in view of WO 98/57485 (hereinafter "Nyrud") in view of Official Notice. Claims 6, 14, and 19 were rejected under 35 U.S.C. § 103(a) as obvious in view of Nyrud in combination with U.S. Patent No. 6,192,243 (hereinafter "Yang"). Applicant respectfully traverses the rejection.

In responding to the rejection, Applicant only justifies the patentability of the independent claims, because, as the Examiner understands, if the independent claims are non-obvious, all claims dependent thereon must necessarily also be non-obvious.

Independent Claim 1:

With respect to independent claim 1, it is respectfully submitted that the cited references fail to teach or suggest all of the claim limitations. First, Nyrud does not deal with a "method for allocating *MCU resources*" as recited in claim 1. Nyrud merely discusses allocating a range of E.164 *phone numbers*, each of which is assigned to a conference and is dialed by conference users to join the conference associated with that phone number. (Nyrud, p.6, line 36 to p.7, line 13.) These phone numbers have no relation to the resources of the MCU, or to the allocating of such resources. In fact,

Nyrud nowhere mentions even the concept of MCU resource allocation, but merely discloses using the MCU in various ways without regard to available resources.

Second, claim 1 requires the step of “determining the number of MCU resources to allocate at the start of the multipoint network event, the start MCU resources allocation number less than or equal in value than the maximum MCII resources number.” There is no disclosure or suggestion in Nyrud of determining the number of MCU resources to allocate at the *start* of the multipoint network event. As discussed above, Nyrud merely describes allocating a range of E.164 telephone numbers, and such allocation appears to occur in advance of the multipoint network event. For example, Nyrud discloses that:

“Users . . . may then join a conference . . . simply by dialing the assigned E.164 number for the wanted conference. The number to dial [has] to be published to the participants by the initiator/scheduler of the conference together wth the date and time to join. For a future conference, the E.164 number can be allocated when the conference is scheduled.”

Nyrud, p.7, lines 2-9. In short, because the numbers are predetermined and distributed to users before the start of the conference, Nyrud is clear that allocation of the numbers occur before the “multipoint network event,” not at the *start* of the multipoint network event.

In addition, the Office Action relied on Official Notice for teaching the limitation of “the start MCU resources allocation number less than or equal in value than the maximum MCU resources number.” The Office Action stated that “Official Notice is taken that it is a well-known practice not to assign more than what is being requested.”

Applicant respectfully traverses the Official Notice as to the well-known nature in the art of this limitation, and asserts that this limitation does not recite a ubiquitously known feature to those in the art. This limitation is clearly not “capable of such instant and unquestionable demonstration as to defy dispute,” and hence it is inappropriate to take Official Notice of this fact. *See MPEP § 2141.03(A) (quoting In re Ahlert, 424, F.2d 1088, 1091, 165 U.S.P.Q. 418, 420 (C.C.P.A. 1970)).* Accordingly, unless the rejection in view of Official Notice is withdrawn, Applicant respectfully requests the Examiner to provide evidenciary, documentary support to support and prove the Examiner’s assertion. *See MPEP § 2144.03(C).*

In short, because the Examiner's purported combination of Nyrud in view of Official Notice does not teach or suggest all of the limitations of Applicant's claim 1, the rejection of claim 1 cannot be sustained. *See MPEP § 2143.*

Independent Claim 9:

The Office Action essentially rejected claim 9 on the same basis as Claim 1. However, for at least some of the same reason as set forth above, claim 9 is patentable over Nyrud. For example, Nyrud does not disclose or suggest allocating resources in an MCU and certainly does not suggest such allocation at a start of the multipoint network event. Moreover, Nyrud discloses use of his technique with only a single MCU (see Fig. 1), and additionally does not disclose or suggest "obtaining available MCU capacity in a plurality of MCUs." Accordingly, claim 9 is also patentable over Nyrud.

Independent Claim 6:

It is respectfully submitted that the combination of Nyrud and Yang fails to render claim 6 obvious.

As explained above, Nyrud fails to teach or suggest "allocation of MCU resources" or "determining the number of MCU resources to allocate for the start of the multipoint network event."

Yang similarly fails to disclose or suggest these limitations. Yang's system optimizes the number of channels in a cell in a cellular system for use as "guard channels," and dynamically updates the number of guard channels as a function of time and through a dynamic review of traffic and mobility conditions in the cell. *See Yang, Abstract.* However, this does not disclose or suggest "allocation of MCU [i.e., *multipoint control unit*] resources." Yang simply does not disclose or envision the use an MCU as that term is properly construed, but instead deals with a network of point-to-point connections. Additionally, nothing in Yang discloses or suggests that the number of guard channels is allocated "for the start of the multipoint network event." Instead, the number of guard channels is constantly updated in the cell, without regard to the start of any particular "network event," such as establishing a particular call within the cell.

Accordingly, even if the combination of Nyrud and Yang is assumed to be proper, the combination does not disclose or suggest all of the limitations of the claim. Clearly therefore, the combination could not render Applicant's claims unpatentable for obviousness. *See MPEP § 2143.03.*

Moreover, combination of these references is improper, i.e., one skilled in the art would not be motivated or suggested to combine Nyrud and Yang. Nyrud distinguishes, i.e., "teaches away" from the use of his advent with basic telephone services such as is taught in Yang. In distinguishing his advent over the prior art (AU 673763), Nyrud states that "this prior art relates to a switching network, i.e. having no relation to networks which generally do not support telephone services, i.e. packet switch networks which are based on a different technology." (Nyrud, p.4, line 30 to p.5, line 8.) Thus, one following the teachings of Nyrud would not be motivated to combine Nyrud with Yang. Therefore, obviousness of claim 6 is improper for this additional reason.

Independent Claim 19:

The Office Action essentially rejected claim 19 on the same basis as claims 1 and 6. However, for at least some of the same reasons as set forth above, claim 19 is patentable over Nyrud and Yang.

* * * *

Applicant respectfully submits that the claims are allowable over the cited references, and respectfully requests a Notice of Allowance at the earliest possible date.

Please change the attorney docket number for this application to 199-0242US.

Should the Examiner have any questions or concerns that can be addressed via telephone, the Examiner is requested to contact either Terril G. Lewis at 832-446-2422 or H. Lisa Calico at 512-473-2550, ext. 102.

Respectfully submitted,

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